



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/420,503	10/18/1999	CAMERON STUART BIRSE	004860.P2434	2896

7590 05/03/2004  
BLAKELY SOKOLOFF TAYLOR & ZAFMAN  
12400 WILSHIRE BOULEVARD 7TH FLOOR  
LOS ANGELES, CA 90025

EXAMINER
----------

VU, THONG H

ART UNIT	PAPER NUMBER
----------	--------------

2142

DATE MAILED: 05/03/2004

18

Please find below and/or attached an Office communication concerning this application or proceeding.

Sk

## Office Action Summary

Application No.

09/420,503

Applicant(s)

BIRSE ET AL.

Examiner

Thong H Vu

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

1. Claims 1-15 are pending.
2. Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-15 are rejected under 35 U.S.C. § 102(e) as being anticipated by Hopmann et al [Hopmann 6,578,069 B1].
4. As per claim 1, Hopmann discloses a method comprising a first network computer client of a plurality of NC clients causing other of the plurality of clients that are booted to receive operating system software that is configured differently than a first operating system software in effect by replacing a first (set of one or more) system volume(s) maintained at a server [Hopmann, resource stored at the server can be modified by other clients, vol 2 lines 12-47; a plurality of server and clients connected via LAN/WAN/Internet; col 5 lines 45-59,col 6 lines 7-28,col 7 lines 15-33; upload and download specific version, col 7 line 57-col 8line 12, col 9 lines 1-51, col 15 lines 10-20, col 17 lines 5-13; the first version of the resource, the second version of the resource,

col 23 lines 12-58] the server containing the first operating system software with a second set of one volume (or more system volumes) maintained at the NC server containing second operating system software [Hopmann, a database on server stored a modified resource, col 13 lines 45-64]. It was clear that one of the clients uploaded or changed a resource (i.e.: modified resource) on server and the other clients downloaded and rebooted to access the modified resource).

5. Claims 2,3,11-14 and 15 contain similar limitation set forth the rejected claimed 1. Thus, claims 2,3,11-14 and 15 are rejected for the same rationale set forth in claim 1.

6. As per claims 4,7,9 Hopmann discloses the NC client causing those of the plurality of NC clients that subsequently open an application to utilize a modified version of the application by replacing the first set of one or more system volumes, wherein the first set of one or more system volumes further comprises application software which is equivalent to the modified software copy or the partially replaced software [Hopman a modified resource, col 13 lines 45-64].

7. As per claim 5, Hopmann discloses wherein at least one NC client is not rebooted for a period of time after replacing the first set of one or more system volumes. It was clear that the NC client which uploaded the modified (second) version resource to the server will not rebooted for a period of time.

8. As per claims 6,8,10 Hopmann discloses the operating software as UNIX and MS-DOS as inherent features of resources.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-15 are rejected under 35 U.S.C. § 103 as being obvious over Hopmann et al [Hopmann 6,578,069 B1] in view of Davis et al [Davis 5,742,829].
10. As per claim 1, Hopmann discloses a method comprising a first network computer client of a plurality of NC clients causing other of the plurality of clients that are booted to receive operating system software that is configured differently than a first operating system software in effect by replacing a first (set of one or more) system volume(s) maintained at a server [Hopmann, resource stored at the server can be modified by other clients, vol 2 lines 12-47; a plurality of server and clients connected via LAN/WAN/Internet; col 5 lines 45-59, col 6 lines 7-28, col 7 lines 15-33; upload and download specific version, col 7 line 57-col 8line 12, col 9 lines 1-51, col 15 lines 10-20, col 17 lines 5-13; the first version of the resource, the second version of the resource, col 23 lines 12-58] the server containing the first operating system software with a second set of one volume (or more system volumes) maintained at the NC server

containing second operating system software [Hopmann, a database on server stored a modified resource, col 13 lines 45-64].

It was well-known in the art that clear that the client downloaded the software from a server (i.e.: modified resource) then the PC needs to rebooted to activate the resource [see Davis, the client changes operating system with the flexibility of booting up to utilize the correct edition, col 10 lines 12-42]

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the technique of automatic booting up the client node to utilize the correct version as taught Davis into the Hopmann's apparatus. Doing so would provide a quick and simple process to update the resource between server and clients via network.

11. Claims 2,3,11-14 and 15 contain similar limitation set forth the rejected claimed 1. Thus, claims 2,3,11-14 and 15 are rejected for the same rationale set forth in claim 1.

12. As per claims 4,7,9 Hopmann-Davis disclose the NC client causing those of the plurality of NC clients that subsequently open an application to utilize a modified version of the application by replacing the first set of one or more system volumes, wherein the first set of one or more system volumes further comprises application software which is equivalent to the modified software copy or the partially replaced software [Hopman a modified resource, col 13 lines 45-64].

13. As per claim 5, Hopmann-Davis disclose wherein at least one NC client is not rebooted for a period of time after replacing the first set of one or more system volumes. It was clear that the NC client which uploaded the modified (second) version resource to the server will not rebooted for a period of time.

14. As per claims 6,8,10 Hopmann-Davis disclose the operating software as UNIX and MS-DOS as inherent features of resources.

15. Claims 1-15 are rejected under 35 U.S.C. § 103 as being obvious over Yu et al [Yu 5,483,647] in view of Heath et al [Heath 6,006,034].

16. As per claim 1, Yu discloses a method comprising a first network computer client of a plurality of NC clients replacing a first (set of one or more) system volume(s) maintained at a server [Yu, user terminal T as one of said terminals changes / updates a first operating system by a second operating system, col 15 lines 1-67,col 17 lines 8-24]

The server containing the first operating system software with a second set of one volume (or more system volumes) maintained at the NC server containing second operating system software [Yu, a hybrid system with connected to a number of terminals / controllers using a first and second operating system, abstract, col 3 lines 10-25,col 8 lines 1-23].

However Yu does not detail the changed operating system on server causing other of the plurality of clients that are booted to receive operating system software that is configured differently than a first operating system software (by in effect)

It was well-known in the art that anything changed on server would effect to the client nodes which connected to server such as Heath teaching. Heath discloses a system and method for automatic upgrading and maintenance application version [Heath, abstract, retrieved in subsequent updates, automatically updated by an operating system each time the client is booted up, col 2 lines 6-62;server downloadthe catalog, compares the version, update/replace the component, col 11 lines 28-48]

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the technique of changing/updating the client operating system by the current version on server as taught by Heath into the Yu's apparatus in order to implement the technique of modified and replaced software between computers. Doing so would reduce the management requirements for a computer network and provide a dynamic, efficient and friendly approach to updating software between the server and client nodes.

17. Claims 2,3,11-14 and 15 contain similar limitation set forth the rejected claimed 1. Thus, claims 2,3,11-14 and 15 are rejected for the same rationale set forth in claim 1.

18. As per claims 4,7,9 Yu-Heath disclose the NC client causing those of the plurality of NC clients that subsequently open an application to utilize a modified version of the



Art Unit: 2142

application by replacing the first set of one or more system volumes, wherein the first set of one or more system volumes further comprises application software which is equivalent to the modified software copy or the partially replaced software as inherent feature of the first and second operating system.

19. As per claim 5, Yu-Heath disclose wherein at least one NC client is not rebooted for a period of time after replacing the first set of one or more system volumes as inherent feature or regenerating object code or booting process.

20. As per claims 6,8,10 Yu-Heath disclose the operating software as UNIX and MS-DOS as inherent features of operating software.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Thong Vu, whose telephone number is (703)-305-4643.

The examiner can normally be reached on Monday-Thursday from 8:00AM- 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Jack Harvey*, can be reached at (703) 305-9705.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9700.

Any response to this action should be mailed to: Commissioner of Patent and Trademarks, Washington, D.C. 20231 or faxed to :

After Final (703) 746-7238

Official: (703) 746-7239

Non-Official (703) 746-7240

Hand-delivered responses should be brought to Crystal Park 11,2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

*Thong Vu*  
*Patent Examiner*  
*Art Unit 2142*

